



City of Sweetwater

EMERGENCY COMMISSION MEETING

AGENDA

MEETING DATE: WEDNESDAY, JULY 3, 2019 AT 8:10 PM COMMISSION CHAMBERS, 500 SW 109 AVE.

1. ROLL CALL.
2. PLEDGE OF ALLEGIANCE.
3. INVOCATION.
4. PUBLIC COMMENTS.
5. A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF SWEETWATER, FLORIDA, ENGAGING THE LAW OFFICE OF RAY GARCIA, P.A. TO REPRESENT THE CITY OF SWEETWATER IN FILING A LAWSUIT AGAINST FORMER INTERIM MAYOR JOSE M. DIAZ FOR REIMBURSEMENT OF FUNDS PAID BY THE CITY TO YAIMA VEGA UNDER EEOC CONCILIATION AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.
(MAYOR LOPEZ)
6. ADJOURNMENT.

THIS MEETING WAS CALLED AS AN EMERGENCY AT THE REQUEST OF MAYOR LOPEZ.

IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE CITY COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, HE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

DECORUM

Sec. 2-55. - Manner of addressing commission; time limit.

Each person addressing the city commission shall step up in front of the rail, give his name and address in an audible tone of voice for the records, and unless further time is granted by the city commission, shall limit his address to three minutes. All remarks shall be addressed to the city commission as a body and not to any member thereof. No person, other than the members of the city commission and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the city commission, without the permission of the presiding officer. No question shall be asked a commission member except through the presiding officer.

Sec. 2-57. - Decorum generally.

(a) By commission members. While the city commission is in session, the members must preserve order and decorum, and a member shall neither, by conversation or otherwise, delay or interrupt the proceedings or the peace of the city commission nor disturb any member while speaking or refuse to obey the orders of the city commission or its presiding officer, except as otherwise provided in this division.

(a) By other persons. Any person making personal, impertinent or slanderous remarks or who shall become boisterous while addressing the city commission shall be forthwith barred by the presiding officer from further audience before the city commission, unless permission to continue is granted by a majority vote of the city commission.

RESOLUTION NO.: _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF SWEETWATER, FLORIDA, ENGAGING THE LAW OFFICE OF RAY GARCIA, P.A. TO REPRESENT THE CITY OF SWEETWATER IN FILING A LAWSUIT AGAINST FORMER INTERIM MAYOR JOSE M. DIAZ FOR REIMBURSEMENT OF FUNDS PAID BY THE CITY TO YAIMA VEGA UNDER EEOC CONCILIATION AGREEMENT; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City is subject to an at-fault determination of liability for Jose M. Diaz actions in sexually harassing Yaima Vega and wrongfully terminating her; and,

WHEREAS, the City is subject to a damage assessment of liability for Jose M. Diaz actions in sexually harassing Yaima Vega and wrongfully terminating her in the amount of ; and

WHEREAS, the attached proposed conciliation agreement is incorporated herein; and,

WHEREAS, the attached engagement agreement is incorporated herein; and

WHEREAS, it is in the City's interest to obtain reimbursement for any and all funds paid as a result of Former Interim Mayor Jose M. Diaz actions; and,

WHEREAS, it is in the City's interest to hire the Law Office of Ray Garcia, P.A. to represent the City of Sweetwater in order to attempt to obtain reimbursement for any and all funds paid to Yaima Vega as a result of Former Interim Mayor Jose M. Diaz actions; and

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COMMISSION OF THE CITY OF SWEETWATER, FLORIDA:

Section 1. The attached engagement agreement and conciliation agreement are incorporated herein.

Section 2. The Mayor is authorized to hire the Law Office of Ray Garcia, P.A. to represent the City of Sweetwater in order to attempt to obtain reimbursement for any and all funds paid to Yaima Vega as a result of Former Interim Mayor Jose M. Diaz actions.

Section 3. This resolution shall become effective upon its adoption by the City Commission and approval of the Mayor or if, vetoed, upon its reenactment by the City Commission as provided by the Charter of the City of Sweetwater.

PASSED and ADOPTED this _____ day of _____, 2019.

ORLANDO LOPEZ, Mayor

Commission President

ATTEST:

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

CARMEN GARCIA, CITY CLERK

RAY GARCIA, CITY ATTORNEY

VOTE UPON ADOPTION:

JONIEL DIAZ COMMISSION PRESIDENT
MARCOS VILLANUEVA, COMMISSION VICE PRESIDENT
CECILIA HOLTZ-ALONSO, COMMISSIONER
DAVID BORRERO, COMMISSIONER
SAUL DIAZ, COMMISSIONER
ISIDRO RUIZ, COMMISSIONER
SOPHIA LACAYO, COMMISSIONER



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Miami District Office

Miami Tower
100 SE 2nd Street, Suite 1500
Miami, FL 33131
Intake Information Group: (800) 669-4000
Intake Information Group TTY: (800) 669-6820
Miami Direct Dial: (305) 808-1740
FAX (305) 808-1855
Website: www.eeoc.gov

CONCILIATION AGREEMENT

IN THE MATTER OF:

EEOC CHARGE NO. 846-2014-06716

U. S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

and

Yaima Vega
CHARGING PARTY

and

City of Sweetwater
RESPONDENT

A charge having been filed under Title VII of the Civil Rights Act 1964, as amended (Title VII), with the U.S. Equal Employment Opportunity Commission, by the Charging Party against the Respondent, the charge having been investigated and reasonable cause having been found, the parties do resolve and conciliate this matter as follows:

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I. GENERAL PROVISIONS

1. Commission May Review Compliance with Agreement

The Respondent agrees that the Commission, on request of the Charging Party or on its motion, may review compliance with this agreement. As a part of such review, the Commission may require written reports regarding compliance, may inspect the Respondent's premises, interview employees, and examine and copy relevant documents.

2. Agreement Does Not Constitute Admission of Violation

It is understood that this agreement does not constitute an admission by any Respondent of any violation of any statute administered by EEOC.

3. Charging Party Covenant Not to Sue

The Charging hereby waives, releases and covenants not to sue Respondent with respect to the matters which were alleged in this charge in file with the EEOC, subject to performance by the Respondent of the promises and representations contained herein. The EEOC shall determine whether the Respondent has complied with the terms of this Agreement.

4. All Employment Practices to be Conducted in Non-Discriminatory Manner

The Respondent agrees that all hiring, promotion practices, and other terms and conditions of employment shall be maintained and conducted in a manner which does not discriminate in violation of any statute administered by the EEOC.

5. Retaliation Prohibited

The Parties agree that there shall be no discrimination or retaliation of any kind against any person because of opposition to any practice declared unlawful under Title VII of the Civil Rights Act of 1964, as amended, or because of the filing of a charge; giving of testimony or assistance; or participation in any manner in any investigation, proceeding or hearing under or Title VII of the Civil Rights Act of 1964, as amended.

6. Reporting Provisions

The Respondent agrees to retain the records and to provide the written reports under the section in this Agreement entitled "Reporting Provisions." These written reports will be sent to the Miami District Office of the EEOC located in 100 SE 2nd Street, Suite 1500, Miami, FL 33131.

7. Enforcement of Agreement

The parties agree that this Agreement may be specifically enforced in court and may be used as evidence in a subsequent proceeding in which any of the parties allege a breach of this Agreement.

8. Impact Upon EEOC Processing

EEOC agrees not to use the subject charge as the jurisdictional basis for civil action under Title VII of the Civil Rights Act of 1964, as amended, but does not waive or in any manner limit its right to process or seek relief in any other charge or investigation including, but not limited to, a charge filed by a member of the Commission against Respondent.

II. CHARGING PARTY'S RELIEF

1. Back Wages

Within ten (10) days of the ratification of this agreement, Respondent agrees to pay Charging Party back wages, minus legal deductions, in the amount of sixteen thousand six hundred thirty-six dollars (\$16,636.00). The check should be made payable to Yaima Vega and certified mail to her address at 13332 SW 112th Court, Miami, FL 33176. Respondent will provide Charging Party with a W2 no later than January 31, 2020.

2. Compensatory Damages (Pecuniary & Non-Pecuniary) and Punitive Damages

Within ten (10) days of the ratification of this agreement, Respondent agrees to pay Charging Party fifty thousand dollars (\$50,000.00) in compensatory damages incurred in efforts to secure her rights under Title VII of the Civil Rights Act of 1964, as amended. Respondent will provide Charging Party with a 1099Misc no later than January 31, 2020.

3. Training

Within thirty (30) days of the ratification of this Agreement, Respondent agrees to schedule its employees, including members of management and Human Resources, for training on gender and retaliation discrimination under Title VII of the Civil Rights Act of 1964, as amended. Specifically, employees will be trained on recognizing and reporting sexual harassment. All training must be completed within ninety (90) days of the ratification of this Agreement. Respondent will provide a complete list to include the name of individuals, with their job titles, and the date they are scheduled for training.

III. NOTICE POSTING REQUIREMENTS

Respondent agrees to sign, circulate to its employees, and conspicuously post an Anti-Discrimination Policy. Respondent will post copies of the Anti-Discrimination Policy on all employee bulletin boards for a period of three (3) years from the date of receipt of the signed agreement.

IV. REPORTING

1. Report on Payment of Wages

Within thirty (30) days of the ratification of this Agreement the Respondent agrees to provide the Commission with a written report describing the manner in which payment was made to the Charging Party, to include a copy of the check mailed to the Charging Party.

2. Report on Payment of Compensatory Damages

Within thirty (30) days of the ratification of this Agreement the Respondent agrees to provide the Commission with a written report describing the manner in which compensatory damages were made to the Charging Party, to include a copy of the check mailed to the Charging Party.

3. Report on Training Activities

Within ten (10) days of completing the training, Respondent agrees to provide a written report to the Commission outlining the manner in which the training, as required under Section II (paragraph three) was completed. Respondent must also submit the sign-in sheet with all training materials and participants' signatures as acknowledgment of completing the training.

V. SIGNATURES

I have read the foregoing Conciliation Agreement and I accept and agree to the provisions contained therein:

Date

Yaima Vega
CHARGING PARTY

Date

City of Sweetwater
RESPONDENT

Approved on Behalf of the Commission:

Date

Michael J. Farrell
DISTRICT DIRECTOR

APPENDIX A
NOTICE
STATEMENT OF EEO POLICY

It is the policy of City of Sweetwater (hereinafter referred to as the Respondent) to offer employment opportunities to all qualified employees and applicants, regardless of sex, race, color, religion, national origin, age, or disability. There will be no intentional discrimination in violation of the provisions of Title VII of the Civil Rights Act of 1964, as amended; the Age Discrimination in Employment Act (ADEA), or the Equal Pay Act (EPA) of 1963, or the Americans with Disabilities Act, amended (ADAAA).

We wish to emphasize that it is the Respondent's fundamental policy to provide equal opportunity in all areas of employment practices. All employees shall feel free to exercise their rights under this policy.

The Respondent will not retaliate against any employee because he or she has opposed any practice made an unlawful practice under Title VII of the Civil Rights Act of 1964, as amended; the Age Discrimination in Employment Act (ADEA), as amended; or the Equal Pay Act (EPA) of 1963, or the Americans with Disabilities Act, as amended (ADAAA), or has filed charges, testified, assisted or participated in any manner in any Civil Rights Act investigation, proceeding, hearing or lawsuit.

An employee has the right, and is encouraged to exercise that right, to report allegations of employment discrimination in the work place. While reporting is not a requirement, an employee may do so by notifying any respondent official. Any report of such an allegation will be thoroughly investigated, with appropriate sanctions taken against any person (s) found to have engaged in inappropriate conduct.

An employee may, either alternatively or in addition to reporting such an allegation to management, contact the U.S. Equal Employment Opportunity Commission, or any Federal or State compliance agency, for the purposes of filing a charge of employment discrimination.

The address and telephone number of the nearest office of the Equal Employment Opportunity Commission is:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Miami Tower
100 SE 2nd Street, Suite 1500
MIAMI, FLORIDA 33131-1805
(305) 808-1740

DO NOT REMOVE THIS NOTICE!

This notice is posted pursuant to a Conciliation Agreement entered into with the U.S. Equal Employment Opportunity Commission.

Name & Title of Respondent's Official

Date



Attorneys
Ray Garcia, Esq.
Nataline Garcia, Esq.
Nicole M. Garcia, Esq.

Attorneys at Law
www.raygarcialaw.com
• Board Certified in Real Estate Law

Address
14850 SW 26th Street Suite 204
Miami, Florida 33185
Tel: 305.227.4030
Fax: 305.223.9811
Toll Free: 1.855.996.0700
legal@raygarcialaw.com

ENGAGEMENT LETTER

July 2, 2019

Mayor Orlando Lopez
City of Sweetwater
500 SW 109th Avenue
olopez@cityofsweetwater.fl.gov

Re: **Representation of the City of Sweetwater (hereinafter referred to as "Client") in attempting obtain reimbursement for obtain reimbursement for any and all funds paid to Yaima Vega as a result of Former Interim Mayor Jose M. Diaz actions**

Dear Client:

We understand that you desire to have our firm represent you as your attorneys in the above-mentioned matter. Our representation pursuant to this Agreement shall become effective upon our acceptance of employment.

We require an initial retainer fee of **\$2,000.00** to be paid prior to **July 30, 2019**. All retainers will be applied toward the fees and costs incurred in this matter. We will bill against the retainer on a monthly basis; however, you will be billed for any fees and costs that exceed the retainer. We may further require and request that you maintain a minimum balance at all times. Upon completion of our representation, any excess will be refunded to you by the firm.

The firm will bill you at the hourly rates of **\$175.00**. We will also utilize law clerks and paralegals where possible; their hourly rates currently range from \$55.00 to \$75.00. If these rates change, we will notify you thirty (30) days in advance. It is understood that the hourly time charges include, but are not limited to: court appearances, telephone conferences, office conferences, legal research, depositions, review of file materials and documents sent and received; preparation for trials, hearings, depositions and conferences; drafting of pleadings, instruments, office memoranda and correspondence. Keep in mind that it is impossible to determine in advance the amount of time that will be needed to complete your case.

Additionally, you will be responsible for all costs incurred on your behalf which typically include court costs, deposition costs, travel expenses, and standard office costs such as postage, photo copying and long-distance telephone charges, as well as other costs incurred in this matter.

The firm will bill you on a monthly basis and payment is due upon receipt of our statement. Please make your checks payable to The Law Office of Ray Garcia, P.A. Any unpaid balance that remains outstanding fifteen days (15) days after the date of our statement for services will accrue interest at an annual rate of eighteen percent (18%) on the unpaid balance. Furthermore, if our fees are not paid timely, we will terminate our services and withdraw from any proceeding or case then pending. Additionally, should it become necessary, you will be responsible for any costs and attorneys' fees incurred by this firm in collecting any unpaid and outstanding balances owed. We shall have a lien on all of your documents, property, or money in our possession for the payment of all sums due us from you under the terms of this Agreement.

As prescribed by The Florida Bar, the following factors will be considered as guides when determining the reasonableness of fees for legal services, such as the following: (1) the time and labor required, the novelty and difficulty of the questions involved and the skill requisite to perform the legal services properly; (2) the fee customarily charged in the locality for similar services; (3) the amount involved and the results obtained; (4) the time limitations imposed by you or by the circumstances; (5) the nature and length of the professional relationship with you; (6) the experience, reputation and ability of the attorneys performing the services.

If this letter accurately reflects our understanding, we request that you sign the original and return it to our office along with the initial retainer fee. A copy of this letter is enclosed for your records and information. Unless and until we receive the signed copy of this letter, along with the full initial retainer, we may elect not to undertake any work on your behalf.

Your cooperation in this matter is very important; specifically, you must keep us informed of all relevant facts and circumstances and respond promptly to all papers sent to you. Even though the firm may terminate representation without cause, failure to inform the firm of relevant facts warrants withdrawal. The firm reserves the right to withdraw as counsel if the clients do not agree with the recommendations of the firm or recommend that firm act in any way that in its legal and professional judgment is believed to be improper.

We look forward to working with you on this matter. Please do not hesitate to give us a call at any time should you have any comments or questions about our representation.

Sincerely,

/s/ Ray Garcia
Ray Garcia

RG/sb
Enclosures
Terms of Engagement

ACKNOWLEDGMENT OF DESIRE TO EMPLOY FIRM

I/We understand and agree to the terms set forth above and to the terms set forth in the attached *The Law Office of Ray Garcia, P.A. Terms of Engagement as Amended July 2006* and I do hereby employ your services in accordance with the same, and authorize you to use our/my funds held in your trust account for attorney's fees and costs incurred during your representation.

City of Sweetwater

Dated: _____

By: _____
Mayor Orlando Lopez

ACCEPTANCE OF EMPLOYMENT BY FIRM

The Law Office of Ray Garcia, P.A.

Dated: _____

By: _____
Ray Garcia, Esq.